

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

TERRY JEROME BROWN,

Plaintiff,

v.

NO. 4:90CV271-S-O

JOE CONNERS, et al.,

Defendants.

OPINION

This cause is before the court for consideration of the magistrate judge's report and recommendation that this cause be dismissed and plaintiff's objections thereto. Having independently reviewed the record, including a transcript of the lengthy and thorough nonjury trial conducted in this case, and the applicable caselaw, the court is of the opinion that the magistrate judge correctly assessed both the facts and the law in reaching his conclusion that judgment should be entered in favor of defendants on plaintiff's claim of excessive use of force. Only three additional comments are warranted.

First, plaintiff submitted (1) a motion for an extension of time in which to submit his objections to the R&R and for a trial transcript and (2) a supplemental motion for an extension of time. However, before the court could rule on either of these motions, plaintiff submitted detailed objections to the magistrate judge's

findings. Under these circumstances, plaintiff's requests are moot.

Second, plaintiff complains that the magistrate judge did not specifically advise him that he could object to "any questions that [he] felt wasn't [sic] proper." The court rejects this argument on several grounds. First, plaintiff, like any pro se litigant, is expected, within reason, to be aware of the various rules governing the course of a trial, including the Federal Rules of Evidence. Furthermore, throughout the proceedings, the magistrate judge repeatedly explained to plaintiff what was happening and what was expected of him and aided plaintiff in preserving his documentary evidence for the record. And finally, this court presumes that in reaching his conclusions the magistrate judge disregarded any testimony which may have been legally objectionable under the rules of evidence without the need for any objection by plaintiff.

And third, most of the magistrate judge's decision is grounded in his assessment of the witnesses' credibility. These credibility choices are entitled to great deference unless something in the record leads this court to disagree with them. Louis v. Blackburn, 630 F.2d 1105 (5th Cir. 1980). The court has carefully reviewed the transcript, paying close attention to those matters which plaintiff points out as problematic, and finds absolutely no reason to question the magistrate judge's credibility determinations.

An appropriate final judgment shall issue.

This _____ day of August, 1994.

CHIEF JUDGE